Charter, Acts and Amendments of the Niagara Falls International Bridge Company and Niagara Falls Suspension Bridge Company

1884

SpC1
KFN
5357
B75
A3
1884

LIBRARY
BROCK UNIVERSITY

Digitized by the Internet Archive
in 2012 with funding from
Brock University - University of Toronto Libraries

http://archive.org/details/charteractsamend00newy

CHARTER,

ACTS AND AMENDMENTS

OF THE

Niagara Falls International Bridge Co.

AND

NIAGARA FALLS SUSPENSION BRIDGE CO.,

ALSO,

ARTICLES OF ASSOCIATION, LEASES AND COVENANTS.

BUFFALO:
Gies & Co., Prs. and Eng., 338 and 340 Washington Street.
1884.

192092

AN ACT

TO INCORPORATE THE

Niagara Falls International Bridge Co.

Passed April 23, 1846, by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corporation created.

§ 1. All persons who shall become stockholders pursuant to this act, shall be, and they are hereby constituted a body corporate, by the name of "The Niagara Falls International Bridge Company," with power to construct or to associate with any other persons, company or association, not having banking powers, and solely for the construction, maintaining and managing of a bridge across the Niagara River, at or near Niagara Falls, in the County of Niagara.

Capital stock.

§ 2. The capital stock of said company shall be two hundred and fifty thousand dollars, which shall be divided into shares of one hundred dollars each, and shall be deemed personal property.

Affairs—how managed.

§ 3. The stock, property, affairs and concerns of said company or corporation shall be managed by seven directors, who shall be stockholders in said corporation, and shall be annually chosen after the first election, on the first Monday in July in each year, at such place at or near Niagara Falls, as a majority of the directors shall

appoint, of which due notice shall be given as hereinafter directed. The directors shall, at their first meeting after such election, appoint one of their number to be president, and shall also choose a secretary and a treasurer, to be required, before entering upon the duties of his office, to give security according to the by-laws of said corporation.

Calls on stockholders.

§ 4. The directors may require from the stockholders payment of all sums of money by them subscribed, at such times and in such proportion as may be deemed proper, under the penalty of forfeiture of their respective shares, and all payments thereon, first giving thirty days' previous notice of each call, in one or more newspapers printed in said county.

Subscriptions to Stock.

§ 5. Charles B. Stuart, of Rochester, Alexis Ward, of Albion, Washington Hunt, of Lockport, George R. Babcock, of Buffalo, and Peter B. Porter, of Niagara, shall be commissioners, who shall, on the first Tuesday in May next, meet at some suitable place at or near the said Falls, such as they, or a majority of them, shall appoint, open books and receive subscriptions to the capital stock of said corporation. They may adjourn said meeting to Buffalo or Lockport, or to both, if they deem it expedient, where they may again open the books, after holding them through the business hours of the day on the first meeting, but no adjournment shall be for a less time than one week. Public notice of the first meeting shall be given ten days, and of each adjournment seven days, in one or more of the newspapers printed in the county where the meeting is to be held. The books shall be held open whenever opened by one or more of the commissioners, at least, through the regular business hours of the day, so that all persons who desire it shall have a fair opportunity of becoming subscribers; and the sum of five dollars on each share subscribed shall be paid to the said commissioners attending, at the time of making such subscription.

§ 6. The said commissioners, or a majority of them, shall assemble on the first Tuesday in June next, at their first place of meeting, and if the whole of the said capital stock shall not have been subscribed, may again open the books for further subscriptions, and if more than the whole stock shall have been subscribed, shall distribute the same, and apportion it among the subscribers in such manner as they shall deem most advantageous to the corporation; and after closing the said books, they shall give ten days' notice in a public newspaper in the county of Niagara, of a meeting of the stockholders to choose directors. The said commissioners, or such of them as shall attend, shall preside at the first election. And such election shall be made at the time and place appointed by the commissioners in their notice, by such of the stockholders as shall attend in person or by proxy at the first and all subsequent elections, and they shall be entitled to one vote on each share of stock which they shall respectively hold, and which shall have stood in their names at least fourteen days prior to the time of any election; and the said commissioners so presiding shall, under their hands, certify the names of the directors so elected, and deliver over the subscription money and books to the said directors, and the time and place of holding the first meeting of directors shall be fixed by said commissioners; and the directors shall have power to cause such examination of ways to, and location for said bridge, as may be necessary to the selection of the most advantageous site for the same, with the necessary and proper approaches thereto. The said directors shall select, and by certificate designate the site of said bridge and approaches, and make two certificates thereof, one of which shall be filed with the clerk of the county of Niagara, and the other filed with the secretary of said corporation, which approaches and site shall be considered the approaches to, and site of said bridge, on which they may construct said bridge, and improve and perfect said approaches as hereinafter mentioned.

Additional subscriptions to stock.

Election of directors.

Corporation may purchase and hold real estate.

§ 7. The said corporation is hereby empowered to purchase, receive and hold such real estate on either side of said river as may be necessary and convenient in accomplishing the objects for which this corporation is granted, and may, by their surveyors and engineers, enter upon such sites and locations and take possession of the same. But all such sites and locations as shall be entered upon as aforesaid, shall, except donations, be purchased of the owner or owners of the same, at a price to be mutually agreed upon. In case of disagreement of price, on the East side of the river, or any other cause which shall prevent acquisition by agreement, the said directors may present their petition to the vice-chancellor of the eighth circuit or to the circuit judge of said circuit, setting forth the necessity of such lands for the site of said bridge, toll-houses, gates or accommodations for the officers or agents of the said company in the execution of their duties, and of the attempt and failure to purchase the same, and the residence of the owner, or occupier, or agent representing the same, and the reason why the purchase cannot be made; and the said vice-chancellor or judge shall direct such notice to the owner or representative of said land as he shall deem reasonable, of the time and place of hearing the parties, and upon proof of due service of said notice, and upon hearing, the said vice-chancellor or judge shall appoint three competent freeholders of said county of Niagara, to appraise said lands. The said commissioners, after giving notice to the owner, occupant or agent, or in case of absence, leaving a written notice at his usual place of residence, shall appraise said lands, and award to the owner or owners thereof what they shall deem to be the full value of the same, and shall be authorized to examine lands, administer oaths, to hear testimony, and shall make their appraisement without delay, under their hands and seals, with minute and accurate description of the lands designated, and shall report the same to the said vice-chancellor or judge, who shall examine the report and hear the parties, if desired, and

may increase or diminish the damages if he shall be satisfied injustice has been done. Upon proof to the vice-chancellor or circuit judge within twenty days after his determination, of the payment to the owner or owners, or depositing to his credit in such bank as the chancellor or circuit judge shall direct, the amount of value of such lands, and the payment of the expenses of the application and appraisal, the said chancellor or judge shall make out an order particularly describing the lands and receiving the appraisement, and the payment of the money and expenses, and the facts necessary to the compliance with this section of the act; and when the order shall be recorded in the office of the clerk of the county of Niagara, whose duty it shall be to record the same, the said corporation shall be possessed of all the lands thus ordered, and may enter upon and take possession of the same, and may perfect and improve the same as shall be deemed most useful to the said corporation.

Provision in case of married women, infants, &c.

§ 8. In case any married woman, infant or idiot, insane person, non-resident abroad, or whose residence is unknown, shall be interested in such lands, the vice-chancellor or circuit judge shall appoint some competent and disinterested person to appear before such commissioners and act for and in behalf of such infant, insane person, idiot or non-resident; and the directors of the corporation shall have power to make all reasonable by-laws and rules consistent with general laws for the government of the company and its officers or agents. But this act shall not be construed to authorize said company to appropriate any portion of Goat Island without the consent of the owner or owners thereof.

General powers.

§ 9. The said corporation shall possess the general powers, and be subject to the general restrictions and liabilities prescribed by such parts of the eighteenth chapter of the first part of the Revised Statutes as are not repealed.

Penalty for injuring bridge.

§ 10. If any person shall willfully do, or cause to be done, any act or acts whatever, whereby said bridge or

any work or approach appertaining thereto shall be obstructed, impaired, weakened, injured or destroyed, the person so offending shall forfeit to the said corporation treble damages sustained by means of such offence or injury, to be recovered in the name of the corporation with costs of suit by action of debt; and shall moreover be guilty of a misdemeanor, and be punished by fine or imprisonment, or both, by any court having cognizance of the offence.

Rates of toll.

§ 11. Whenever the said bridge shall be fully completed and its safety tested, and the fact certified by one or more of the judges of the county court of the county of Niagara, not interested, the said company may erect toll-gates, fix the rates of tolls, and make such erections as the directors shall deem expedient to guard the entrances on to said bridge. But no greater tolls than the following shall be charged, viz.: For every foot passenger entering upon, or passing over, twenty-five cents; for every horse and single carriage, fifty cents, and an addition of eighteen and three-fourths cents for every passenger actually traveling in such carriage, and all other passengers twenty-five cents each; for double carriages and two horses, one dollar, and the same rates for passengers, and twenty-five cents for each additional horse in such double carriage; for sheep passing, one and a half cents a head; for swine, two cents each, and for neat cattle, six cents each.

Penalty for forcing the gates.

§ 12. If any person shall force, or attempt to force, any of the gates without having paid the established toll, such person shall forfeit and pay to the said corporation five times the amount of legal toll, to be recovered in manner aforesaid.

Time limited.

§ 13. If the said bridge shall not be constructed within five years after the passing of this act, then the said corporation shall from thenceforth cease.

Right to repeal.

§ 14. The legislature may, at any time, alter or repeal this act.

AN ACT

TO AMEND THE CHARTER OF THE

Niagara Falls International Bridge Co.

Passed July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The directors of the Niagara Falls International Bridge Company are hereby authorized and empowered to issue and distribute, in such manner as they shall determine, so much of the capital stock of said company as they shall deem necessary for the purpose of building and completing a railroad and carriage bridge across the Niagara River, at Bellevue, not exceeding the amount fixed in their act of incorporation; and for such purpose, the said directors shall have the power and authority to make calls, enforce payments, and forfeit the stock, the same as now contained in their act of incorporation. Directors' power to issue stock.

§ 2. The said Niagara Falls International Bridge Company shall have full power and authority by themselves, or in union with the Niagara Falls Suspension Bridge Powers of the Company.

Company of Canada West, to enter into any contract or agreement with any individual, railroad company or railroad companies, with reference to the terms of crossing locomotives and cars, passengers and freight over said railroad bridge, and the construction, repairs, insurance and maintenance of the same, upon such terms and conditions, and for such time or times, as may be agreed upon by and between the parties.

§ 3. This act shall take effect immediately.

ANNO DECIMO

VICTORIÆ REGINÆ.

CAP. CXII.

An Act for erecting a Suspension Bridge over the Niagara River, at or near the Falls of Niagara.

Reserved for the signification of Her Majesty's pleasure, 9th June, 1846.

The Royal Assent given by Her Majesty in Council, on the 30th October, and Proclamation made thereof by His Excellency Earl Cathcart, in the Canada Gazette of December 26, 1846.

Preamble.

Whereas, Samuel De Veaux, James Buchanan, Thomas Street, C. B. Stuart, P. Whitney, W. H. Merrit, James Cummings, Oliver T. Macklim, James R. Benson, William Wright, and others, have, by petition, set forth the great facility and convenience which the construction of a Suspension Bridge over the Niagara River, near the Falls, would offer to the public; and have prayed that they, and such others as may be associated with them for the purposes hereinafter mentioned, may be incorporated, and certain powers granted them to enable them to construct such a bridge: Be it, therefore, enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and entitled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and

Company incorporated for the purpose of building such bridge.

it is hereby enacted by the authority of the same, That the said Samuel De Veaux, James Buchanan, Thomas Street, C. B. Stuart, P. Whitney, W. H. Merrit, James Cummings, Oliver T. Macklim, James R. Benson, William Wright, and all persons who shall become Shareholders in the undertaking hereinafter mentioned pursuant to this Act, shall be, and they are hereby constituted a body corporate and politic by and under the name, style and

Corporate name.

title of *The Niagara Falls and Suspension Bridge Company*, with power to unite with any other persons, company or body politic, to construct a suspension or other bridge across the Niagara River, at or near the Falls, with the necessary approaches thereto with rail, macadamized or other roads, and to connect the same with any other road now or hereafter to be made; and the said Corporation,

Corporate powers.

by the name aforesaid, shall and may, they and their successors, have continued succession, and be capable of contracting, and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may

Common Seal.

and shall have a Common Seal, and may change and alter the same at their will and pleasure; and also, that they and their successors, under the said name of *The Niagara Falls Suspension Bridge Company*, shall be by

May hold real and personal estate.

law capable of purchasing, having and holding any real or personal estate to and for the use of the said company, and of conveying the same for the benefit of the said

Proviso: Amount of such property limited

company: Provided always, nevertheless, that the value of real estate so holden by the said company at any one time, shall not exceed one hundred and twenty-five thousand pounds, currency.

Amount of capital limited.

II. And be it enacted, That one hundred and twenty-five thousand pounds shall constitute the Capital Stock of the said company, and that the same shall be divided into shares of twenty-five pounds each.

III. And be it enacted, That the stock and affairs of the said Corporation shall be managed by seven Directors, who shall be Stockholders, annually chosen (except at the first election) on the first Monday of May in each year, at such place in the District of Niagara as a majority of the Directors shall appoint, of which due notice shall be given at least ten days before such election; each Stockholder at all elections of Directors shall be entitled, either in person or by proxy, to one vote for each share of stock held in his own name at least fourteen days previous to the time of voting; all elections shall be by ballot, and the persons having the greatest number of votes shall be Directors, and shall hold their offices for one year, and until others shall be chosen in their places; the Directors shall, at their first meeting after each election, appoint one of their number to be President, and shall have power to appoint a Treasurer.

Affairs of the Company to be managed by seven Directors.

Qualification for voting at elections.

Election by ballot.

Term of office.

President to be chosen.

IV. And be it enacted, That the Directors may require from the Stockholders payment of all sums of money by them subscribed, by installments, not exceeding five per cent. per month, at such times and in such proportions as may be deemed proper, under the penalty of the forfeiture of their respective shares, and of all previous payments thereon.

Payment of sums subscribed for—how enforced

V. And be it enacted, That the said James Buchanan, Thomas Street, James Cummings, and W. H. Merrit, Esquires, shall be Commissioners, who shall, on the first Monday in June next, at the Falls aforesaid, and at such other place or places as they or a majority of them shall appoint, open books to receive subscriptions to the Capital Stock of the said Corporation; and that thirty days' public notice shall be given by the said Commissioners, of the time and place of opening such books, in a public newspaper printed and published in the District of Niagara; and that the said books shall remain open for at least three days at the several places where the same may be opened under the direction of one or more of the said

Commissioners appointed to open books for subscriptions.

Giving thirty days' notice.

Sum to be paid on subscribing.

Commissioners, and such sum as they may think expedient, not exceeding five per cent., shall be paid on each share subscribed at the time of subscribing.

First meeting for distributing the stock among the subscribers.

VI. And be it enacted, That the said Commissioners shall assemble at the Falls of Niagara on the first Monday of July next, or as soon thereafter as the whole Capital Stock of the said Corporation shall be taken up, and shall proceed to distribute the said stock amongst the subscribers thereto, and in case there shall be subscriptions to more than the amount of such stock within the term specified for keeping open the said books, it shall then be the duty of the said Commissioners to apportion the same among the subscribers in such manner as a majority of them shall deem most advisable; and as soon as the stock shall be distributed, the said Commissioners shall give notice of a meeting of the Shareholders at such time and place as a majority of the Commissioners shall appoint, to choose seven Directors; the notice last mentioned shall be published for the same time and in the same manner as the notice hereinbefore mentioned, and such election shall be made at the time and place so to be appointed by such of the Shareholders as shall attend for that purpose either in person or by lawful proxy; and the said Commissioners shall deliver over the subscription money and books to the said Directors, and the time and place of holding the first meeting of Directors shall be fixed by the Commissioners; and the said Directors shall have power to cause such examinations and surveys of the way to, and locations for the said bridge as may be necessary to the selection of the most advantageous site for the same, and shall have full power to enter upon, take, and occupy any lands necessary for the construction of the said bridge, or the rail or other roads leading to or from the same, first paying or tendering the value thereof, which value shall be determined by two persons selected, one by the claimant and the other by the said company, and in case they do not agree, a third person shall be appointed by the Governor or other

Notices to be given by the Commissioners of the first meeting for the election of Directors.

Papers to be delivered to the Directors

Survey of site for bridge, and road to it, and power to the Company to take the land requisite

Compensation to parties—how to be settled.

persons administering the Government, whose decision shall be final; and the said Directors shall select, and by certificates designate the ways to, and site of the said bridge, copies of which certificates shall be filed in the office of the Registrar of the County of Lincoln, and such ways and site shall be deemed the way to, and site for the said bridge, and on which the said Corporation may make and construct the said ways and bridge, as hereinbefore mentioned.

Directors to file certain certificates of the site chosen, &c.

VII. And be it enacted, That the fines and forfeitures authorized to be imposed by any Justice of the Peace by this act, shall and may be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any warrant to be for that purpose issued by any such Justice, who is hereby authorized and empowered to grant the same.

Fines and forfeitures—how levied.

VIII. And be it enacted, That if any person shall willingly do, or cause to be done, any act or acts whatever whereby the said bridge, or any thing appertaining thereto, shall be impaired or injured, the persons so offending shall forfeit and pay to the said corporation treble the damages sustained by means of such offence or injury, to be recovered in the name of the corporation, with costs of suit by action, and shall be, moreover, guilty of a misdemeanor, and be punishable by fine or imprisonment, or both, by any Court having cognizance of such offence: Provided, that nothing in this act contained shall be construed to extend to take away the jurisdiction given to Justices of the Peace by an act passed in the fourth and fifth years of the Reign of Her present Majesty, entitled, *An Act for consolidating and amending the Laws in this Province relative to malicious injuries to property.*

Penalty on persons wilfully injuring bridge or the works connected with it

Proviso: Jurisdiction of Magistrates under 4 and 5 Vict., cap. 26, not to be affected by this Act.

IX. And be it enacted, That whenever the said bridge shall be completed and its safety fully tested, and the fact certified by a majority of the Directors, the said Corpora-

What tolls may be taken

tion may erect a gate, or gates, and determine and establish the rates of tolls to be demanded for the crossing of the said bridge.

Penalty on persons forcibly passing the bridge. £20. How recovered.

X. And be it enacted, That if any person, or persons, shall forcibly pass any gate without having paid the legal toll, such person, or persons, shall forfeit and pay to the said Corporation a sum of not less than two pounds, and not exceeding twenty pounds, to be recovered before any Justice of the Peace of the Niagara District, in the same manner as any other fines are recoverable before Justices of the Peace.

Corporation authorized to make By-laws.

Penalties limited.

XI. And be it enacted, That the said Corporation shall have power to make such rules and pass such by-laws as they may think reasonable and proper, with suitable penalties (not exceeding, in any case, twenty pounds), touching the speed in passing over the said bridge, and the weight to be admitted thereon at any one time; which rules, as well as the rates of toll, shall be plainly painted on a board or cloth, and put up on or near each gate in a conspicuous place; and such penalties, if incurred, shall be recoverable in like manner as the penalties hereby imposed.

Penalty on toll-gatherer for misconduct in certain cases.

XII. And be it enacted, That if any toll-gatherer shall, unreasonably and without cause, delay or hinder any passenger, or the passage of any property agreeably to the rule prescribed in such case, or shall demand or receive more than the legal toll, he shall, for every such offence, forfeit the sum of one pound and five shillings, currency, to be recovered with costs for the use of the person so delayed, hindered or defrauded; and any one Justice of the Peace for the Niagara District may, on conviction of such offender, fine such person in the said penalty, and levy such fine in the manner aforesaid.

Power of Directors to manage the property of the Company.

XIII. And be it enacted, That the Directors for the time being, or a majority of them, shall have power to make and subscribe such Rules and By-laws as to them

shall appear needful and proper touching the management and disposition of the stock, property, estate and effects of the said Corporation, and touching the duties of its officers, clerks and servants, their appointments and salaries, and all such other matters and things as shall appertain to the business of the said Corporation.

Bridge to be constructed within ten years.

XIV. And be it enacted, That if the said Bridge shall not be constructed and used within ten years from the passing of this Act, then the said Corporation and the privileges hereby conferred upon it shall from thenceforth cease and determine.

Limitation of Actions.

XV. And be it enacted, That if any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next afterwards; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Public Act.

XVI. And be it enacted, That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons, without being specially pleaded.

Legislature may at any time alter the provisions of this Act.

XVII. And be it enacted, That notwithstanding the privileges hereby conferred, the Legislature may at any time hereafter make such addition to this Act, or such alterations of any of its provisions, as they may think proper for affording such protection to the public, or to any person or persons, body politic and corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any way or right, public or private, that may be affected by any of the powers given by this Act.

ANNO DECIMO

VICTORIÆ REGINÆ.

CAP. XXXVII.

An Act to increase the Capital Stock of the Niagara Falls Suspension Bridge Company.

Assented to 18th December, 1854.

Preamble.

WHEREAS, The Niagara Falls Suspension Bridge Company have applied for an increase of the Capital Stock of that Company, and it is expedient to grant the same; be it, therefore, enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, and under the authority of, an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and entitled, *An Act to reunite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Company may increase their Stock by £25,000, and in what manner.

I. It shall and may be lawful for the said Niagara Falls Suspension Bridge Company to increase their Capital Stock by an amount not exceeding Twenty-five Thousand Pounds, of lawful money of this Province, by creating an additional number of Shares, not exceeding One Thousand, of Twenty-five Pounds each, which Shares may be subscribed for either in or out of this Province, in such proportions or numbers, and at such times and places, and under such regulations and conditions, as the major-

ity of the Directors of the said Company shall, from time to time, establish, and the Shares subscribed for shall be paid in by such installments, and at such times as the Directors may appoint; provided, that no Share shall be held to be legally subscribed for unless ten per centum thereof be paid at the time of subscribing. Proviso.

II. The Directors shall have the same power to forfeit the Shares to be subscribed for under this Act, and the holder or holders of such new Shares shall have the same right to vote thereon, as are given in and by the original Act of Incorporation of the said Company, with regard to the Shares therein mentioned. New Shares to be subject to Act of Incorporation.

III. The proviso at the end of the third Section of the Act of the now last Session, entitled, *An Act to increase the Capital Stock of the Niagara Falls Suspension Bridge Company*, which limits the said Capital Stock to Fifty Thousand Pounds, shall be, and is hereby, repealed. Proviso to Sect. 3, of 16 V. c. 110, repealed.

IV. This Act shall be deemed a Public Act. Public Act.

ARTICLES OF UNION AND ASSOCIATION

BETWEEN THE

NIAGARA FALLS INTERNATIONAL

AND

Suspension Bridge Companies.

THIS INDENTURE, made the ninth day of November, in the year one thousand eight hundred and forty-seven, between the NIAGARA FALLS SUSPENSION BRIDGE COMPANY, of the one part, and the NIAGARA FALLS INTERNATIONAL BRIDGE COMPANY, of the other part:

WITNESSETH, That, whereas, the two companies were incorporated for the express purpose (as appears by their respective charters) of constructing a Suspension or other Bridge over the Niagara River near the Falls, for the convenience, use and benefit of the citizens, subjects and residents, as well of the State of New York and other States of the American Union, as of Great Britain, her dependencies, and Canada.

And, Whereas, For the purpose of carrying into effect the intention of the Legislature of New York and the Provincial Parliament of Canada, in authorizing and empowering the respective companies to construct the said Bridge, it has become necessary for the said parties in this indenture mentioned, to agree upon some uniform plan and system of construction, and upon some general principles, rules and regulations for the constructing of, and maintaining and conducting, the operations and business of said Bridge when constructed.

Now, Therefore, It is mutually covenanted and agreed by and between the parties of the first and second part, as follows, that is to say—

1st. That the stock, property and funds of each of the said companies shall be applied exclusively to the constructing, maintaining and managing the said Bridge, its appurtenances and approaches, and that no part of the joint or separate funds of the said companies shall be applied to any other use or purpose whatsoever.

2d. That no contract with any persons, individual or individuals, for the constructing or maintaining the said Bridge, or its incidents, shall be entered into, without the same shall have been approved by the two companies, or their agents, each being liable only for a moiety or half part of all sums of money to be paid for or on account of contracts entered into by the consent of both, and each shall only be liable for its own moiety of performance of such contracts, and all contracts to be made shall be made accordingly.

3d. Each company shall be bound and responsible for, and shall furnish, one-half of the sum required for the constructing, maintaining and managing said Bridge and its appurtenances, at such times as the same shall be required; and each shall assess and make calls, and place in the hands of their treasurer, simultaneously with the other, its respective share. And each shall have in the hands of their treasurer, five thousand dollars, ready to be paid over on or before the fifteenth day of May next, and shall assess and make further calls, equally, as the same shall be wanted to carry on the operations of building and completing the structure.

4th. If either company shall make default in payment of the money which shall, from time to time, be required to commence, carry on and complete, the said Bridge, or repair the same, it shall be at the election of the other to prosecute and recover damages for such default, or to go on and furnish the same, and complete and take possession of the structure, and hold the same with all the emoluments, benefits and advantage thereof, until they shall net from its avails the money so advanced, and also ten per cent. per annum, and at and after that rate for a longer or shorter time from the date of such advance until the same shall be refunded, which said ten per cent. shall be taken and held by the company so advancing, as stipulated damages against such said defaulting company.

5th. All profits and losses shall be divided between, or borne equally by, the respective companies; and statements of profits and losses, and all expenditures and outlays, shall be entered by the respective treasurers and exhibited to the joint Board by them as often as required.

And it is hereby mutually agreed, that all expenses of every kind charged on such Bridge and appurtenances, shall be equally borne by both; and all profits, gains and advantages shall be shared by each equally with the other; and the said Bridge and its appurtenances, approaches and appendages, shall be the joint property of the two companies, so that they may be equal in all things; and all superintendents, collectors of tolls, and all tariffs of tolls, shall be appointed by the joint acts of the two Boards, and established and altered by them, and so of all regulations for managing and controlling the said Bridge and its appendages.

6th. It shall require a majority of the members of each Board to form a quorum of the joint Board, and no measure shall be deemed to be passed or carried unless it shall receive a vote of a majority of the members of each Board present, and no business shall be transacted by either company separate from the other in any measure affecting the joint interests.

7th. If any difference of opinion should arise between the companies touching the rate of freight, passages, management, or any other matter or thing relating to said Bridge or joint property, the same shall be submitted to arbitration in manner following: One disinterested arbitrator shall be selected by each Board of Directors, to whom the matter in controversy shall be submitted; and in case the arbitrator thus selected cannot agree, they shall select a third arbitrator, and their decision in writing, or a majority of them, shall be binding and conclusive on the companies in the premises submitted.

8th. By-Laws shall be passed by the joint Boards for the government of the companies, and fixing the mode and manner, time, &c., of holding joint meetings.

Sealed and delivered the day and year above written.

LOT CLARK,

President Niagara Falls International Bridge Co.

WM. HAMILTON MERRITT,

President Niagara Falls Suspension Bridge Co.

CHARLES EVANS,

Secretary pro tem.

WM. O. BUCHANAN,

Secretary Niagara Falls Suspension Bridge Co.

ACTS OF THE PARLIAMENT

OF THE

DOMINION OF CANADA

PASSED IN THE

THIRTY-EIGHTH YEAR OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA,

AND IN THE

SECOND SESSION OF THE THIRD PARLIAMENT.

CHAP. 72.

An Act to legalize and confirm certain agreements made between The Niagara Falls International Bridge Company, The Niagara Falls Suspension Bridge Company, and the Great Western Railway Company.

[*Assented to 8th April*, 1875.]

Preamble. Recital of agreements between the companies, respecting railroad floor of the bridge.

WHEREAS, The Niagara Falls International Bridge Company, incorporated by an Act of the State of New York, The Niagara Falls Suspension Bridge Company, and the Great Western Railway Company, did, on the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, execute and enter into a certain indenture and agreement bearing that date, whereby the said two Bridge Companies did demise and lease to the said Railway Company the railroad floor and structure of the Suspension Bridge across the Niagara River at or near the Town of Clifton, then the Village of Elgin, including all its supports, fixtures and gates, excepting the sidewalks and their gates, for and during the continuance

of the said Railway Company's Charter, which said indenture and agreement is set out in Schedule A to this Act:

And Whereas, The said three Companies have entered into two agreements, bearing date respectively the eighteenth day of January, in the year of Our Lord one thousand eight hundred and seventy-two, and the twenty-seventh day of February, in the year of Our Lord one thousand eight hundred and seventy-five, in amendment and explanation of the said indenture of the first day of October, in the year of our Lord one thousand eight hundred and fifty-three, which said two agreements are respectively set out in Schedules B and C to this Act;

Possession by Great Western Railway Company.

And Whereas, Shortly after the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, the said Railway Company did, under and in pursuance of the said indenture of that date, enter into possession of the said railroad floor and its said appurtenances, and have ever since remained in possession thereof, and have performed all the terms and conditions of the said lease, as so amended, on their part;

Doubts raised and petitions for their removal.

And Whereas, Doubts have been raised as to the power of the said Niagara Falls Suspension Bridge Company to enter into the said indenture, or demise the said railroad floor as in the said indentures and agreements mentioned, and the said Companies have by their petition prayed that all doubts as to the validity of the said indenture and agreements may be removed, and that the same may be declared legal, and it is expedient to grant the prayer of the said Petition;

Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Certain indentures and agreements, being schedules A, B and C, confirmed and declared valid.

1. The said indenture and agreement bearing date the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, the said agreement bearing date the eighteenth day of January, in the year of Our Lord one thousand eight hundred and seventy-

two, and the said agreement bearing date the twenty-seventh day of February, in the year of Our Lord one thousand eight hundred and seventy-five, and which form respectively the Schedules A, B and C to this Act, are and each of them is hereby confirmed and declared to be and to have been legal and valid; and all and singular the provisions, stipulations, covenants and agreements, and all and singular other the matters in the said indenture and agreement set out in Schedule A to this Act, as amended and explained by the said agreements set out in Schedules B and C to this Act, shall be valid and binding upon each of the said Companies, and in favor of the said two Bridge Companies and of the said Railway Company respectively, and shall in all respects have the same force and effect as though the same were and every of them was expressly embodied in this Act.

Agreements may be made for the use of the railroad floor of the bridge by other companies.

2. It shall be lawful for the Great Western Railway Company to agree with any company, corporation or persons, using or proposing to use the said railroad floor of the said bridge and the approaches thereto, as to the amount of tolls, rates or other remuneration to be paid to the Great Western Railway Company for such use, and to commute the same at any fixed or variable amount, or for a payment or payments in gross or for recurrent payments at fixed or variable periods; and any agreement so entered into between the Great Western Railway Company and such other company, corporation or persons for the use of the said railroad floor and approaches, shall be legal, valid and binding; and under any such agreement, such company, corporation or persons shall be entitled to the use of the said railroad floor and approaches according to the stipulations and conditions of such agreement.

Use of railroad floor may be restricted.

3. It shall be lawful for the Great Western Railway Company to confine the use of the said railroad floor of the said bridge to railway traffic, and at their option to transport upon and across the said railroad floor of the said bridge, with their own servants and motive power,

the cars and traffic of all such companies, corporations and persons as may use or propose to use the said railroad floor of the said bridge, and to agree with any such company, corporation or person, as to the amount of tolls, rates or other remuneration to be paid to the Great Western Railway Company, for such service, and to commute the same at any fixed or variable amount, or for a payment or payments in gross, or for recurrent payments at fixed or variable periods.

Agreement between certain Canadian Railway Companies and Great Western, confirmed.

4. The agreement entered into between the Erie and Niagara Railway Company, and the Canada Southern Railway Company, and the Great Western Railway Company, dated the twentieth day of March, one thousand eight hundred and seventy-five, and which forms Schedule D to this Act, is hereby declared legal, valid and binding.

SCHEDULE A.

This Indenture, Made and concluded this first day of October, in the year one thousand eight hundred and fifty-three,

Between the Niagara Falls International Bridge Company and the Niagara Falls Suspension Bridge Company jointly, party of the first part, and the Great Western Railway Company in Canada West, party of the second part.

Whereas, The parties of the first part are now constructing a Suspension Bridge across Niagara River, extending from the Village of Bellevue, in the State of New York, to the Village of Elgin, in Canada West, with two floors, the upper floor thereof being designed to pass railroad trains with locomotives, and the lower floor thereof for carriages, foot-passengers and animals; the upper floor to have sidewalks for foot-passengers, and gates to control the entrance upon the railroad floor and the sidewalks, and railing or lattice-work on the inner margin of the sidewalks, so as to separate them from the railroad pass-

way, and to have the entrance to the sidewalks separate from the entrance to the railway, in such a manner as to prevent foot-passengers from going on to the railroad track;

And Whereas, The parties of the first part are erecting said railroad bridge of such strength and stability, as to render it entirely safe and sufficient for the passage of heavy trains with locomotives, and purpose laying down rails with a gauge of four feet eight and one-half inches, one of five feet and six inches, and one of six feet, and to complete the whole at the earliest period which the safety of the structure will permit.

Now, This Indenture witnesseth, that the said parties of the first part, in consideration of the rents, covenants and agreements of the party of the second part hereinafter contained, covenant and agree to and with the party of the second part, that they will with all convenient speed complete the structure above mentioned, and submit the same to proper tests, and the inspection of the Hon. H. H. Killaly, and in case of his inability to act, or declining to do so, to some other engineer competent, to be mutually agreed upon between the parties; in the event of the parties being unable to agree upon an engineer, each party to appoint one, and the persons so appointed to select an umpire, who shall be satisfied of its capacity to carry engines, passenger and freight cars, at a moderate velocity, not exceeding five miles an hour; and when so finished and satisfactorily tested, to lease and let, and the said parties of the first part, do hereby lease and let to the said party of the second part, the railroad floor and structure, including all its supports, fixtures and gates, excepting the sidewalks and their gates, to be for their entire use and under their control, for and during the continuance of their Charter, yielding and paying therefor, to the party of the first part, the sum of forty-five thousand dollars for each year, payable half-yearly on the first days of June and December, from and after the time the same shall be tested and approved as aforesaid.

And the said parties of the second part covenant and agree to and with the parties of the first part, that they will forever hereafter, during the continuance of their Charter, except as hereinafter mentioned, yield and pay to the parties of the first part, forty-five thousand dollars rent in each year, payable half-yearly on the first days of June and December, and keep the said floor, railway tracks, and all structures and approaches appertaining to the same and so rented, in good order, repair and condition, except the foot-walks and the gates approaching the same,—accidents arising from defect in the strength or structure of said bridge, and accidents by fire also, excepted. And it is expressly understood, that the strength and stability of the structure for railway purposes, as herein stated and described, shall be at the risk of the said parties of the first part, and that the conditions herein imposed upon the parties of the second part, to keep the said floor in repair, shall not apply to the cables, nor any other part of the bridge, affecting or pertaining to its stability as a railway structure.

The parties of the second part may from time to time, and as often as they may deem necessary, at their own cost and charges, (provided the bridge should be reported on as safe,) require that the said bridge or any part of the same be examined and reported upon by competent engineers, which engineers, if not mutually agreed upon, shall be selected, one by each party, and the two so selected shall choose a third ; and should the said engineers or a majority of them, on examination, report that the said bridge cannot with safety be used for railroad purposes, then the rent hereby reserved shall cease from such time as said engineers shall decide the same to be unsafe, until the said bridge shall be strengthened and made safe, and be so determined by competent engineers selected and chosen in the manner above described, and when so determined, the rent shall be again resumed, and that during the period such rent shall cease and be discontinued, all the passengers, baggage, freight, &c., of the

parties of the second part crossing said bridge, shall be subject to such reasonable rates of toll as shall be agreed upon between the parties. And if at any time hereafter the rent herein reserved, or any part thereof, shall be unpaid or remain due and unpaid to the parties of the first part, for the space of thirty days after the same ought to be paid, the parties of the first part shall be at liberty to end this lease, and re-enter and take possession of the structure and all its approaches and appendages, or may at their option suffer this Indenture to continue in force, and proceed by action to recover arrears of rent. But nothing in this clause shall be construed to prevent the parties of the first part from proceeding by action or otherwise to recover arrears of rent at any time when due, and in case of re-entry, they shall not be prevented from prosecuting for arrears that may remain due at the time of such re-entry.

For the purpose of making this covenant and agreement more explicit and better understood, the following explanations, provisions and stipulations are to become part of this agreement, and each of the parties hereto covenant and agree to the same as follows:

Article 1st. The lower or carriage way of the bridge and its approaches, and the sidewalks of the upper railroad floor and their approaches, are to be under the control and for the use of the parties of the first part, but are not to be used in any manner to the hindrance of free and uncontrolled use of the railroad floor and its approaches by the parties of the second part for railroad purposes.

2d. The upper railroad floor of the bridge and structure, including all supports, fixtures and gates, excepting the sidewalks and their gates and approaches, are to be under the control and for the use of the parties of the second part for railroad purposes; said supports and fixtures properly belonging to, and sustaining the upper structure thereof.

3d. The possession and use of said railroad structure by the parties of the second part, is to carry with it the exclusive right to extend to other companies and persons, the privilege of crossing said railroad bridge with locomotives, trains and cars carrying passengers and freight, on such terms as they may agree to, subject, however, to the conditions and restrictions prescribed in this Indenture to the parties of the second part.

4th. It is understood, that the privilege hereby conveyed to the parties of the second part, is for the purpose of passing locomotives and cars with freight and passengers, in the prosecution of legitimate railroad business, and that they are not to afford the means to any other person or persons, except railroad passengers, of crossing or evading the payment of toll to the parties of the first part.

5th. The parties of the second part to be responsible to the parties of the first part, that the companies or individuals to whom they shall underlet, shall keep within the restrictions and conditions contained in this Indenture; and the parties of the second part shall have all the profits accruing therefrom.

6th. As it is believed that many of the railroad passengers will prefer walking over said bridge, or going in omnibuses or other carriages, to passing over in the cars, the parties of the first part agree to permit them so to pass over their upper sidewalks and lower floor free, on their producing tickets from the Railroad Company, showing that they are regular railroad passengers, and have come from, or are going a distance of at least five miles East or West, to or from the bridge; but this permission is not to prevent the parties of the first part from charging the regular tolls upon the omnibuses or carriages carrying such railroad passengers. The meaning of this article is, that the parties of the second part shall not carry passengers who are only passing from one side of the river to the other, and that they, and those to whom they underlet, shall not carry passengers over said bridge, nor

give tickets to passengers, to pass the bridge, who have not come, or are going, at least five miles to or from the bridge, and shall not give tickets to, nor carry persons who intend merely to pass the bridge, and are not thus traveling in their cars; but shall at all times adopt such reasonable regulations as may be necessary to prevent such evasions of the rights of the parties of the first part, to take toll from all except legitimate railway passengers. And if at any time the agents or employees of the parties of the second part, or those to whom they shall underlet, shall in any manner collude with persons to afford them the means of evading the rights of the parties of the first part, to take toll, the parties of the second part, or those exercising the right under them, shall, on such collusion or evasion being made known to them, dismiss such agents or employees.

7th. The parties of the second part agree to keep in good condition and repair, the said railroad floor, railway tracks and all approaches and structures appertaining to the same herein leased to them as aforesaid; but the stability and sufficiency of the bridge when completed, as a railway structure, is guaranteed by the parties of the first part. And the parties of the first part also agree to keep the floor of the upper sidewalks and their approaches, and the entire lower floor and its approaches and appendages, in good condition and repair.

8th. The parties of the second part are to permit, under regulations made by them, of the running of a light car with locomotive or horse-power, to convey omnibus passengers between the Village of Niagara Falls and Table Rock, by the parties of the first part, but in a manner that shall not interfere with the rights above granted to the parties of the second part, or any other Railroad Company having rights to pass said bridge under them.

9th. The short railroad from Niagara, Canada West, to the Falls, and from Port Dalhousie to St. Catharines, which could not be expected to arrange with the parties

of the second part, for transit across the bridge, upon a principle of percentage, to have it in their power to arrange with the parties of the second part at five cents per head for their railroad passengers, and a proportionally moderate fare for freight.

[*The above Ninth Article abrogated by agreement of* 18*th January*, 1872.]

10th. No railroad locomotive or train to cross the bridge at a greater velocity than at the rate of five miles per hour; and no locomotive or cars to stop or remain on the bridge in passing over.

11th. The parties of the first part to allow the directors and employees of the parties of the second part, and such other railway companies as they shall make arrangements with, free tickets to pass their bridge, and the parties of the second part shall allow from their own, and procure from the railroad companies with whom they shall arrange for the use of the bridge as aforesaid, free tickets for the directors and officers of the parties of the first part to pass over their respective railways.

12th. It is believed that the carriage-way of said bridge will be finished before the railway floor shall be completed, and in that case the parties of the first part are to allow the passengers and their baggage coming in the trains of the parties of the second part, to pass such new and present carriage bridge at ten cents each, and freight at a reasonable rate, to be agreed upon between the parties.

13th. The parties of the second part shall not do, nor suffer any act or thing under this agreement, contrary to the charter of incorporation of either of the bridge companies aforesaid.

14th. All taxes, of every description and kind whatever, both upon the American and Canadian sides, to be paid by the parties of the first part.

In Witness Whereof, The parties to these presents have hereunto caused the seals of the respective companies to

be affixed, and the same to be executed by their proper officers, the day and year first above mentioned.

Signed, sealed and delivered
in presence of

LOT CLARK, [Seal.]
W. O. BUCHANAN. President Niagara Falls
International Bridge Co.

W. HAMILTON MERRITT, [Seal.]
W. O. BUCHANAN. President Niagara Falls
Suspension Bridge Co.

Witness: C. J. BRYDGES, [Seal.]
Q. M. KENDRICK. Vice-President.

SCHEDULE B.

WHEREAS, Differences of opinion have arisen between the parties of the first part and the parties of the second part in the annexed agreement, as to the extent and nature of the repairs to be made under the seventh or other clauses of said agreement, and by whom the same are to be made and borne:

1st. For explanation thereof, it is hereby mutually understood and agreed upon, that the parties of the second part shall, at their own expense, assume, and make, and pay, and bear the cost of repairs of the track-girders above and below the upper floor beams, and also of the upper floor planking and of the covering thereof, between the suspenders and within the towers extending about three feet from outside of said track-girders, according to that part tinted red of the plan hereunto annexed, and shall renew the said girders and upper floor planking and covering when necessary, and shall also be at the expense of repairing and renewing, when necessary, one-fourth of the floor beams, by repaying or refunding to the parties of the first part one-fourth of the cost of such repairs and renewals.

2d. It is further mutually understood and agreed upon, that all such repairs, excepting those of the rails forming

the tracks, shall be made, when required, by the Mechanical Engineer of the parties of the first part, and under his directions, and that the parties of the second part shall pay to the parties of the first part the reasonable cost of the same, on the production of the certificate of such Engineer.

3d. All spans and approaches to the said bridge necessary for railway purposes, shall be kept and maintained at the expense of the parties of the second part, except the masonry and bridge stairs.

4th. The ninth clause in the annexed agreement is hereby abrogated and declared to be of no effect.

In Witness Whereof, The parties to these presents have hereunto caused the seals of their respective companies to be affixed, and the same to be executed by their proper officers, this eighteenth day of January, one thousand eight hundred and seventy-two.

Signed, sealed and delivered
in presence of
Wm. G. Swan.
As to the execution by
Lorenzo Burrows.
Samuel Dickie,
As to the execution by
Thomas C. Street,
By the Great Western
Railway
Of Canada. In presence of
John Burton.

Lorenzo Burrows, [Seal.]
President Niagara Falls
International Bridge Co.

Thomas C. Street, [Seal.]
President Niagara Falls
Suspension Bridge Co.

The Great Western Railway
Of Canada. By [Seal.]
Joseph Price,
Secretary Canada Board.

SCHEDULE C.

This indenture made in duplicate the twenty-seventh day of February, in the year of Our Lord one thousand eight hundred and seventy-five, between the Niagara Falls International Bridge Company, hereinafter called the New York Bridge Company, of the first part; the Niagara Falls Suspension Bridge Company, hereinafter

called the Canadian Bridge Company, of the second part, and the Great Western Railway Company of Canada, hereinafter called the Railway Company, of the third part:

Whereas, By an indenture bearing date the first day of October, in the year of our Lord one thousand eight hundred and fifty-three, made between the New York Bridge Company and the Canadian Bridge Company of the first part, and the Railway Company of the second part, the said Bridge Companies did lease to the Railway Company, for and during the continuance of its charter, the railroad floor and structure of the Suspension Bridge across the Niagara River extending from the village of Bellevue, now the town of Suspension Bridge, in the State of New York, to the village of Elgin, now the town of Clifton, in the Dominion of Canada, including all the supports, fixtures and gates thereof, excepting the sidewalks and their gates, upon and according to the terms and provisions in the said indenture set forth, and reserving the yearly rent of forty-five thousand dollars, payable half yearly on the first days of June and December, to the said Bridge Companies jointly;

And Whereas, The said Bridge Companies and the said Railway Company, on the eighteenth day of January, in the year of Our Lord one thousand eight hundred and seventy-two, entered into an agreement bearing that date, in explanation and amendment of the said indenture of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three;

And Whereas, Doubts have been raised as to the validity of the said indenture of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, and the Railway Company considering it desirable that such doubts should be removed, have agreed to increase the rent reserved by the said indenture of lease, from forty-five thousand dollars a year to fifty thousand dollars a year of lawful money of Canada, such increased rent to be computed from the first day of

August now last past, on condition that these presents shall be executed, and that the said indenture of lease, the said agreement, and this indenture shall be declared and made valid by Act of Parliament. And the said Bridge Companies and the said Railway Company have agreed to execute these presents in confirmation of the said recited lease and agreement, and to secure the payment of the said increased rent;

And Whereas, The parties to these presents have agreed to apply to the Parliament of the Dominion of Canada for an Act to declare and make the said lease and agreement and this indenture valid;

Now, Therefore, This indenture witnesseth, that in consideration of the premises and of the increased rent hereinafter reserved and made payable, the New York Bridge Company and the Canadian Bridge Company do, and each of them doth hereby confirm, assure, demise and lease unto the Railway Company the said railroad floor and structure of the said Suspension Bridge, including all its supports, fixtures and gates (excepting the sidewalks and their gates), and all the tolls, rights, powers and franchises of the said Bridge Companies, and each of them in respect thereof,

To have and to hold the same unto and to the use of the said Railway Company, and under their sole control for and during the continuance of the charter of the Railway Company upon the terms, provisions and conditions in the said indenture of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three set forth, as explained and amended by the said agreement of the eighteenth day of January, in the year of Our Lord one thousand eight hundred and seventy-two.

And the Railway Company hereby, on the conditions hereinbefore recited, covenant with the said the New York Bridge Company and the Canadian Bridge Company, that hereafter when, and so often as any half-yearly payment of rent shall become due and payable to the

said two Bridge Companies, under and by virtue of the said recited indenture of lease, they, the Railway Company, will pay to them such rent, at the rate of fifty thousand dollars a year, instead of at the rate in the said indenture mentioned, such increased rent to be computed from the first day of August last, and be paid on the days and times in the said recited indenture mentioned.

And the said New York Bridge Company and the Canadian Bridge Company hereby jointly and severally covenant with the Railway Company, that they will join the Railway Company in an application to the Parliament of the Dominion of Canada for an Act of such Parliament to confirm and make valid the said indenture of lease, of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, the said agreement of the eighteenth day of January, in the year of Our Lord one thousand eight hundred and seventy-two, and this indenture, and that such legislation shall be applied for forthwith, and as often as the Railway Company may deem necessary or of any avail, and that they will use their best exertions to procure the same.

And the New York Bridge Company and the Canadian Bridge Company do, and each of them doth hereby grant, assign and transfer to the Railway Company all tolls, charges and demands of them, the said Bridge Companies, and of each of them against any and every Company whatsoever, for or in respect of the use, in the past and future, of the railroad floor of the said bridge, and do, and each of them doth hereby release and acquit the Railway Company from every demand of them, the said Bridge Companies, and each of them, for or in respect of the use of the railroad floor of the said bridge, save and except the rent under the said indenture of lease, from the first day of June last to the first day of August last, at the rate of forty-five thousand dollars a year, and the rent since that date at the increased rate of fifty thousand dollars a year.

And it is expressly understood and agreed between the parties to these presents, that nothing herein contained

shall operate or be taken as a surrender of the said indenture of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, or of the term thereby created.

And it is hereby further agreed, that the said rent shall in future be payable only at the City of Hamilton, in the Dominion of Canada.

And it is hereby expressly understood and agreed by and between the parties hereto, that if the application to the Dominion Parliament to make valid the said lease, the said agreement and this indenture, shall prove abortive, then these presents and everything herein contained shall be null and void, and the several parties hereto shall be placed *in statu quo ante* this agreement.

In Witness Whereof, The said Companies have hereunto affixed their corporate seals the day and year first above written.

Signed, sealed and delivered.

(Signed,) L. Burrows, [Seal.]
President Niagara Falls International Bridge Company.

(Signed,) Joseph A. Woodruff, [Seal.]
President Niagara Falls Suspension Bridge Company.

SCHEDULE D.

This Agreement made the twentieth day of March, in the year of Our Lord one thousand eight hundred and seventy-five,

Between the Erie and Niagara Railway Company, hereinafter called "The Erie and Niagara," the Canada Southern Railway Company, hereinafter called "The Canada Southern," and the Great Western Railway Company, hereinafter called "The Great Western:"

Whereas, By an indenture bearing date the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, made between the Niagara Falls

International Bridge Company, and the Niagara Falls Suspension Bridge Company of the one part, and "The Great Western" of the other part, the said Bridge Companies did, among other things, lease to "The Great Western" the upper or railroad floor of the bridge spanning the Niagara River, at the town of Clifton, to be for the entire use and under the control of "The Great Western" during the continuance of its charter, ("The Great Western" paying the rent thereby reserved,) and giving to "The Great Western" the exclusive right to extend to other companies and persons the privilege of crossing the said bridge with locomotives, trains and cars carrying passengers and freight, on such terms as "The Great Western" and such companies or persons might agree to, but subject to the conditions and restrictions in the said indenture contained;

And Whereas, The Attorney General of the Province of Ontario, on or about the fifth day of September, one thousand eight hundred and seventy-two, at the relation of "The Erie and Niagara," filed an information in the Court of Chancery for this Province, against the said Bridge Companies and "The Great Western," praying that it might be declared, among other things, that the said indenture of the first day of October, one thousand eight hundred and fifty-three, was invalid and void;

And Whereas, The said Bridge Companies and "The Great Western" answered the said information, denying the allegation therein made, that it was not within their corporate powers to enter into the said indenture of the first day of October, one thousand eight hundred and fifty-three, and a certain agreement of the eighteenth day of January, one thousand eight hundred and seventy-two, amending the said indenture, and on the contrary, contending that the said indenture and agreement were *intra vires* and valid;

And Whereas, By a decree of the said Court, bearing date the fourth day of February, one thousand eight hundred and seventy-four, it was declared that the said agree-

ment of the first day of October, in the year of Our Lord one thousand eight hundred and fifty-three, was *ultra vires* and void so far as "The Great Western" and "The Niagara Falls Suspension Bridge Company" were concerned; but, by the said decree, the said information was dismissed as against the other Bridge Company;

And Whereas, "The Erie and Niagara" desiring to make a connection with the said bridge, applied to the Railway Committee of the Privy Council for, and obtained an order of the said Committee, bearing date the ninth day of June, one thousand eight hundred and seventy-four, authorizing them to make a crossing towards the said bridge upon certain lands of "The Great Western," in the said order described and referred to;

And Whereas, "The Erie and Niagara" having demanded, and having been refused possession of the said lands, they filed a Bill in the said Court to obtain possession thereof, and such proceedings were had, that by a decree dated the nineteenth day of August, one thousand eight hundred and seventy-four, it was ordered, that upon "The Erie and Niagara" paying into Court to the credit of the cause the sum of one thousand dollars, (which was done,) "The Great Western" should be restrained from preventing "The Erie and Niagara" from crossing and intersecting the lands mentioned or referred to in the said Bill, and from availing themselves of all conveniences necessary for establishing and maintaining a connection with the said bridge in so far as the crossing and intersection of the lands of "The Great Western" in the said Bill mentioned, might be necessary to enable "The Erie and Niagara" to form and maintain such connection, and from in any way interfering with "The Erie and Niagara" in making an approach to the said bridge over the said lands in accordance with the mode proposed in the said order of the Railway Committee of the Privy Council, and from preventing "The Erie and Niagara" entering upon said premises;

And Whereas, "The Great Western" are advised that the said decree of the fourth day of February, one thou-

sand eight hundred and seventy-four, and the said decree of the nineteenth day of August, one thousand eight hundred and seventy-four, are erroneous and can be reversed, and with the view of having them reversed, and having the said information and the said Bill dismissed, have set the said causes down for rehearing by the full Court, where they now stand for argument;

And Whereas, "The Great Western" and the said Bridge Companies, on the twenty-seventh day of February, in the year of Our Lord one thousand eight hundred and seventy-five, entered into a further agreement, having reference to the said bridge;

And Whereas, "The Canada Southern" also claims the right of crossing the said bridge and making connection therewith over the lands of "The Great Western;"

And Whereas, The parties hereto have lately agreed to compromise the matters in dispute between them:

Therefore, These presents witness that the said parties hereto covenant and agree with one another, each for itself and not for the other, as follows:

1. That the Great Western shall maintain its connection now existing between the tracks of the Great Western leading to and across the said Bridge, and the track of the Erie and Niagara and Canada Southern as now used by the Erie and Niagara and Canada Southern, for the prompt working of the Erie and Niagara and Canada Southern traffic over the said Bridge, or shall make and maintain some other connection, (which shall be suitable and serviceable for the like purpose, and shall be assented to by the Erie and Niagara and Canada Southern,) between the Great Western tracks leading to the said bridge, and a track of the Erie and Niagara or Canada Southern, which shall be laid by the Erie and Niagara or Canada Southern to such point of connection.

2. That the Great Western, with the view of having the service performed promptly, shall, with its engines, haul and have the right to haul the Erie and Niagara and Canada Southern traffic to and fro across the said

bridge, and shall haul the same from and on their Clifton (Canada) depot tracks, and the depot tracks of the Erie Railway and New York Central Railroad Companies, or any other company at the said Suspension Bridge, in the State of New York, (the Erie and Niagara and Canada Southern providing the right of way over the Erie and New York Central and other companies' tracks,) in manner following and for the following compensation, that is to say: the Erie and Niagara and Canada Southern shall pay per hour for the services of such engines as they want, at a reasonable rate, which shall also include fuel, oil, waste, &c., and the actual wages paid to the necessary train men with the engines, which rate shall be adjusted from time to time by the superintendents of the respective companies. The Erie and Niagara and Canada Southern to contribute towards and pay to the Great Western the expense and cost of the bridge signal men, and of lamps and oil according to the percentage of business done by the respective companies. Settlements to be made monthly.

3. That the said parties shall each contribute towards the payment of the rent which the Great Western may have to pay to the Bridge Companies, in proportion to the number of cars belonging to them respectively, which may cross over the said bridge, and they shall also contribute in the same proportion towards the cost and expense of repairs to, and maintenance of the said bridge, and the tracks, structures and approaches, and towards every other expenditure which the Great Western may incur or be put to under or by virtue of the said indenture of the first day of October, one thousand eight hundred and fifty-three, and the said agreements explaining or amending the same, and towards every other expenditure which may be agreed upon.

4. That settlements of the proportions of the rent so payable by the Erie and Niagara and Canada Southern respectively to the Great Western, shall be made and the amounts paid monthly, based on the monthly business;

and that settlements of the amounts payable by the Erie and Niagara and Canada Southern respectively to the Great Western, for repairs and maintenance and other expenditure, shall be made annually on the basis of the year's business, but payments on account thereof shall be made monthly by approximation, according to each month's business, and at the end of each year the state of the repairs, maintenance and other expenditure account shall be finally settled between the respective parties, and any moneys overpaid or due shall be paid to the parties respectively, who may have overpaid or to whom the same may be due.

5. That passenger or freight trains belonging to the said parties respectively, which are ready to be taken across the said bridge, shall be taken across the said bridge in the order of their arrival, without preference or priority to any of the parties, but passenger trains shall have the right of precedence in crossing over freight trains; loaded passenger trains over empty passenger trains, and live stock over other freights.

6. That the respective parties shall furnish necessary sidings on their grounds for yardage of cars and making up of trains for their respective businesses, so that there may be no delay in running trains at any time to and fro, and that they will do all other acts that may be necessary for the proper despatch of business.

7. That if at any time the Great Western shall fail to do the work of hauling trains across the said bridge with proper despatch, the Erie and Niagara and Canada Southern shall respectively be at liberty at such times to perform this service for their respective trains with their own engines and train men.

8. The Erie and Niagara and Canada Southern shall join the Great Western in the endeavor to secure legislation to legalize and declare valid the said lease of the first day of October, one thousand eight hundred and fifty-three, and the agreements of the eighteenth day of January, one thousand eight hundred and seventy-two, and

the twenty-seventh day of February, one thousand eight hundred and seventy-five, between the parties to the said lease, and referring thereto and to the said bridge.

9. In the event of the said lease and agreements being so legalized, this agreement shall be co-extensive with the existence of the tenancy of the Great Western or its assigns thereunder, but if the lease of the Great Western shall at any time be determined by an act of the Great Western, then the Erie and Niagara and Canada Southern shall be entitled to the easements authorized by the order of the Railway Committee of the Privy Council of the ninth day of June, one thousand eight hundred and seventy-four, and to make connection with the bridge over the lands of the Great Western in the manner therein indicated, and in that event the Great Western shall restore and reconvey any rights, titles, properties or easements which they may have acquired under the tenth paragraph of this agreement.

10. Upon the legalizing of the said lease and agreements, the Erie and Niagara shall vacate the said decrees, or procure the same to be vacated, and shall procure the said information and the said Bill to be dismissed, and shall abandon all proceedings taken in the premises, and they and the Canada Southern shall release, surrender, grant and convey to the Great Western all and every right, title, property and easement which they or either of them possess or have acquired or become entitled to in respect of the lands in the said Bill mentioned, or under or by virtue of any of the orders, decrees or proceedings hereinbefore referred to, and the Erie and Niagara and Canada Southern shall each release and discharge the Great Western from every claim and demand of them and each of them, for or in respect of or arising out of any delay or hindrance to them or either of them in transporting their traffic or having the same transported across or *via* the said bridge, or in obtaining the possession or use of the right to cross the said bridge, or the said piece of land in the said Bill mentioned.

11. All parties shall bear their own costs of the said suits and proceedings, and the Erie and Niagara and Canada Southern shall pay the costs of the Attorney-General, if any.

12. This agreement shall take effect and operate as if made and entered into on the twenty-fifth day of August last.

13. The number of cars to be taken across the said bridge in one train shall be subject to the regulations from time to time of the Chief Engineer of the Great Western, so, however, that the same regulations shall apply to all persons and companies whose cars and traffic shall be transported across the said bridge, and such regulations may discriminate between the several classes of cars and traffic and between loaded and empty cars.

14. The Erie and Niagara and Canada Southern shall allow and give the Directors and Officers of the said Bridge Companies, free tickets to pass over their respective railways.

15. That neither the Erie and Niagara nor the Canada Southern shall do, suffer or permit any act or thing which, by agreement with the Bridge Companies, the Great Western or their sub-lessees are not to do, suffer or permit, and the rights of the Erie and Niagara and Canada Southern under this agreement shall be subject to, and they, the Erie and Niagara and Canada Southern, shall and will observe all the restrictions and regulations which under any agreement with the Bridge Companies are to be observed by the Great Western or their sub-lessees.

16. That the stability and strength of the structure for railway purposes is not guaranteed by the Great Western, and the use of the same is at the sole risk of the Canada Southern and Erie and Niagara respectively.

17. That during any period of time when the Great Western may cease or suspend the hauling of its traffic over the said bridge until the safety of the same shall

have been ascertained, or until the bridge shall be strengthened and made safe, the rights of the Erie and Niagara and Canada Southern respectively under this agreement shall be suspended.

18. And the several parties hereto do further agree, each with the other, that neither party shall be liable to any person or persons whomsoever, for or in respect of any injury to the persons of the agents, servants or employees of the other or others, whether caused by negligence or otherwise, and nothing in this clause shall be taken as an agreement, implied or otherwise, on the part of either of the companies to indemnify the other companies or either of them, against any claim made against any of the parties hereto for any such injury by the agents, servants or employees of any of them, or any person or persons claiming under or in respect of such agents, servants or employees.

In Witness Whereof, The parties hereto have hereunto affixed their respective Corporate Seals the day and year first above written.

SPCL KFN 5357 B75 A3 1884
C. 1
3 9157 00253513 9

Spcl
KFN
5357
B75
A3
1884

192092

BROCK UNIVERSITY
ST. CATHARINES, ONTARIO

LIBRARY

FOR USE IN SPECIAL COLLECTIONS ONLY